

Sumter City-County Board of Zoning Appeals

November 13, 2013

BOA-13-18, 40 Seay Ct. (City)

A variance of 10 feet from the 35 foot front yard setback requirement per Article 3, Section 3.b.5.b Residential-9 Zoning District Development Standards in order to construct a residential dwelling with a 25 foot front yard setback.



Appeals - Variance - Special Exception

Sumter City-County Board of Appeals

November 13, 2013

BOA-13-18, 40 Seay Ct. (City)

I. THE REQUEST

Applicant: Pinnacle Properties of Sumter, LLC

Status of the Applicants: Property Owner

Request: Applicant is requesting a 10 ft. variance from the required 35 ft. front yard setback in order to construct a residential dwelling with a 25 ft. front yard setback.

Location: 40 Seay Ct.

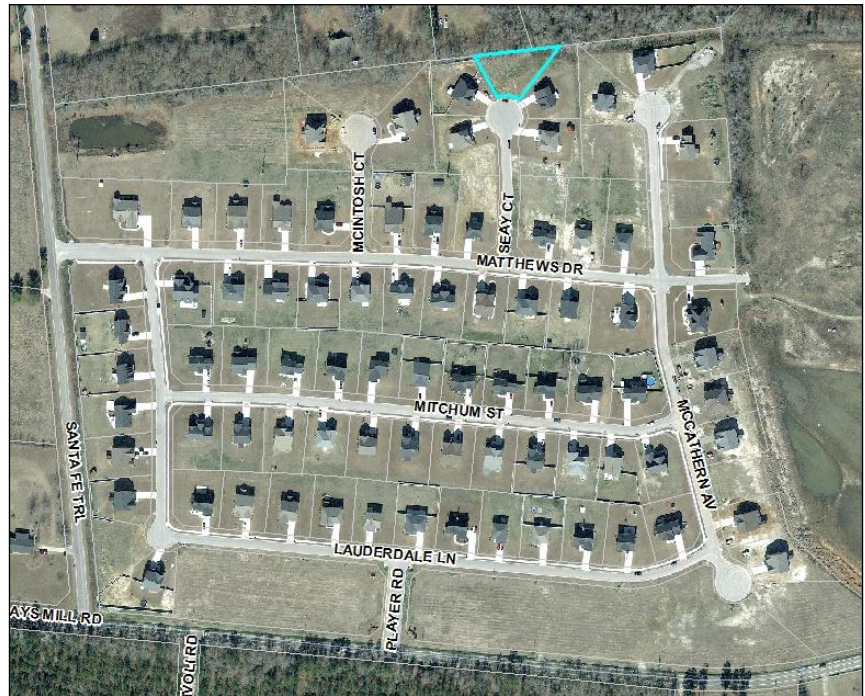
Present Use/Zoning: Residential-9 (R-9)

Tax Map Reference: 182-00-02-008 (Part)

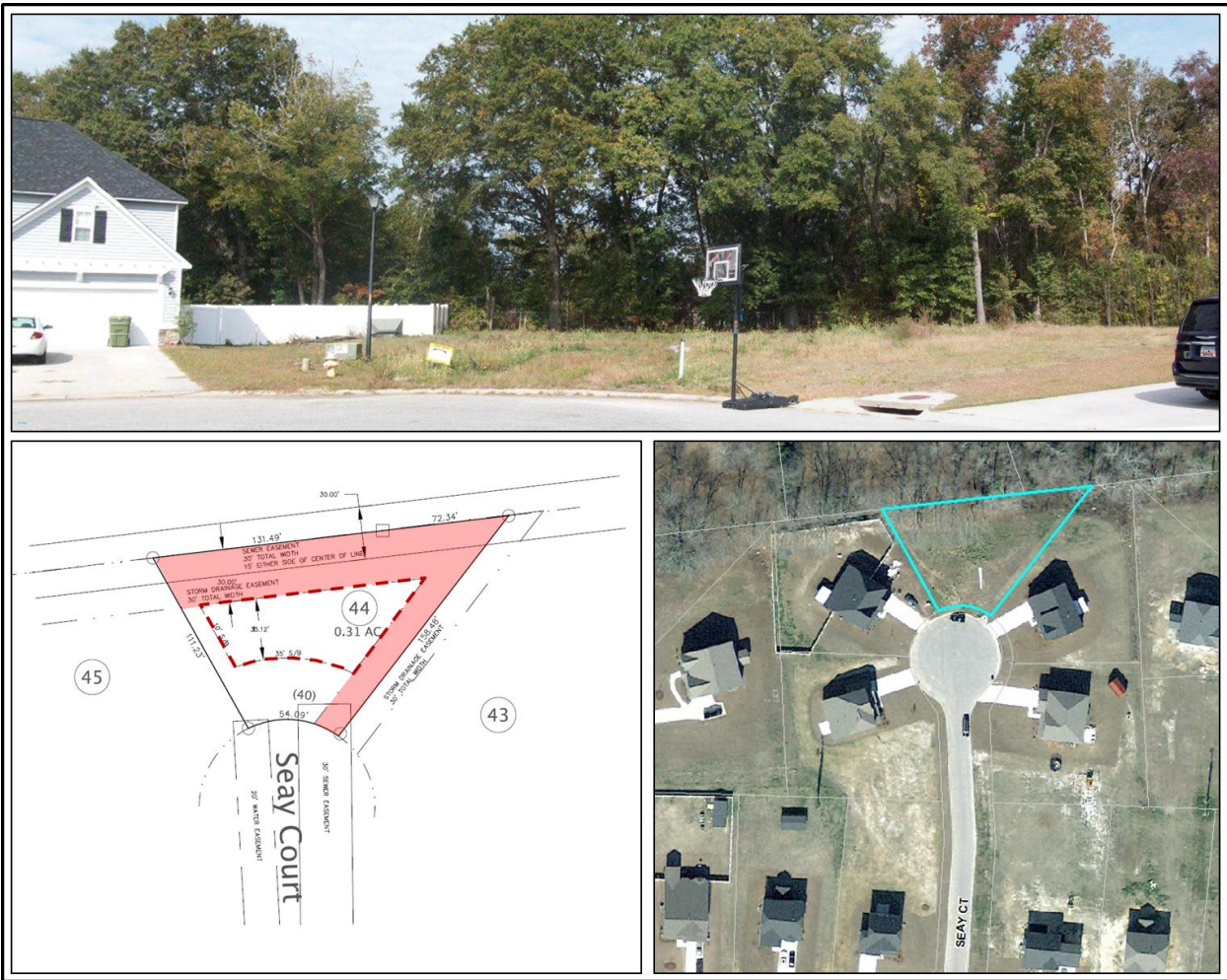
II. BACKGROUND

The applicant seeks a 10 ft. front setback variance on a +/-0.31 acre cul-de-sac lot at 40 Seay Ct. in the Ashbrook Subdivision, shown in the graphic to the right.

The Ashbrook Subdivision (SD-06-05) was approved in 2006. Phase 1 for 103 single family units and is 78% built out. As shown in the graphic, there are dwellings constructed on the lots to the east and west of the subject parcel and this is the last lot on the cul-de-sac to be constructed upon. If a variance is granted, it will permit a single family dwelling to be constructed with a 25 ft. front setback as opposed to the Ordinance required 35 ft. setback.

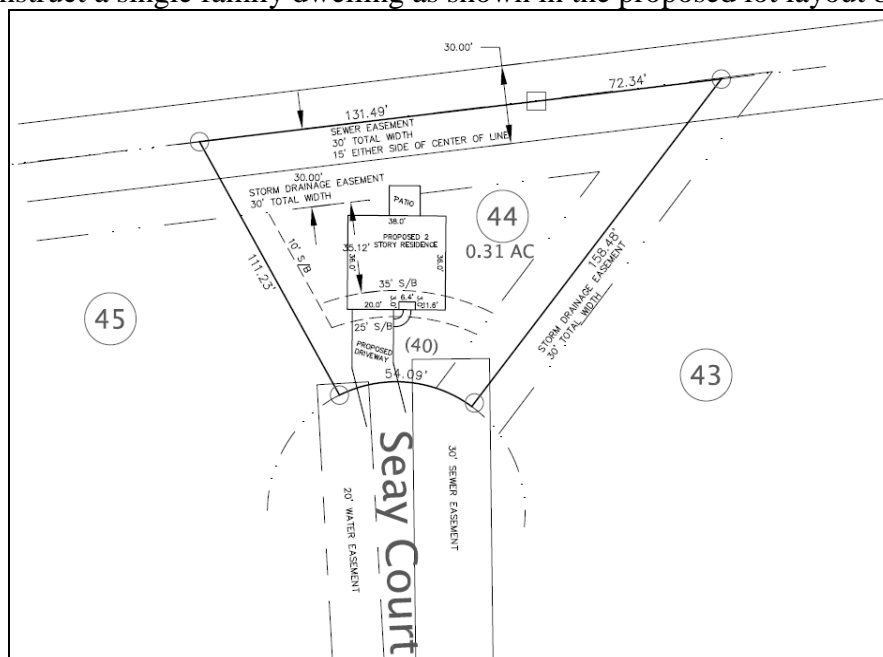


The graphic on the following page shows the lot as it appears today as well as the plat showing the developable area. The areas shaded in red are easements on the lot that cannot be built upon and the red dotted line represents the buildable area. At its narrowest point, the parcel has 35.12 ft. of developable depth.



III. THE REQUEST

The Applicant requests a variance of 10 feet from the required 35 foot front yard setback requirement per Article 3, Section 3.b.5.b. Residential-9 Zoning District Development Standards in order to construct a single family dwelling as shown in the proposed lot layout below.



IV. FOUR-PART TEST

In order to grant the requested variances, the request must meet all parts of a State mandated four-part test. When reviewing a variance request, the Board may not grant a variance that would do the following:

- Allow the establishment of a use not otherwise permitted in a zoning district;
- Extend physically a nonconforming use of land;
- Change zoning district boundaries shown on the Sumter City-County Official Zoning Map.

The fact that a property may be utilized more profitably should a variance be granted shall not be considered grounds for approving a variance request.

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property.

40 Seay Ct. is an irregularly shaped 0.31 acre cul-de-sac lot with a 30 ft. storm drainage easement to the rear of the parcel. At its narrowest point, there is 35.12 ft. of buildable depth to the lot. The average dimensions of structures built within this subdivision are 40 ft. wide by 50 ft. deep.

2. These conditions do not generally apply to other property in the vicinity.

Other property in the vicinity is more uniform in shape with more buildable depth and are not impacted by the presence of drainage easements at the rear of the property that hinder development. In fact, all adjacent lots in this area have been built upon.

3. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

Because of the shape of the property and presence of the storm drainage easement to the rear, the requirement of a 35 ft. front setback will place the dwelling in very close proximity to the drainage easement. Should work be necessary within that easement, it could impact the structure.

4. The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.

Because of the location of the parcel within the development and its irregular shape, authorization of the requested variance, allowing construction of a dwelling similar to the rest of the subdivision will not be of substantial detriment to the adjacent property or the public good.

V. STAFF RECOMMENDATION

The requirements of the four-part test have been met. Staff recommends approval of BOA-13-18.

VI. DRAFT MOTIONS for BOA-13-17

- A.** I move that the Zoning Board of Appeals approve BOA-13-18, subject to the findings of fact and conclusions attached as Exhibit I.
- B.** I move that the Zoning Board of Appeals deny BOA-13-18 subject to the following findings of fact and conclusions.
- C.** I move that the Zoning Board of Appeals enter an alternative motion for BOA-13-18.

VII. ZONING BOARD OF APPEALS – NOVEMBER 13, 2013

The Sumter City-County Board of Appeals at its meeting on Wednesday, November 13, 2013, voted to accept staff recommendation and approve this request subject to the findings of fact and conclusions contained in the draft order, dated November 13, 2013.

Exhibit 1
Order on Variance Application
Sumter Board of Appeals

BOA-13-18, 40 Seay Ct. (City)
November 13, 2013

Date Filed: November 13, 2013

Permit Case No. BOA-13-18

The Sumter Board of Appeals held a public hearing on Wednesday, November 13, 2013 to consider the appeal of Pinnacle Properties of Sumter, LLC, 1770 Camden Hwy., Sumter SC 29153, for a variance from the strict application of the Zoning Ordinance as set forth on the Form 3 affecting the property described on Form 1 filed herein. After consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions.

1. The Board concludes that the Applicant ☒ **has** - ☐ **does not have** an unnecessary hardship because there are extraordinary and exceptional conditions pertaining to the particular piece of property based on the following findings of fact:

40 Seay Ct. is an irregularly shaped 0.31 acre cul-de-sac lot with a 30 ft. storm drainage easement to the rear of the parcel. At its narrowest point, there is 35.12 ft. of buildable depth to the lot. The average dimensions of structures built within this subdivision are 40 ft. wide by 50 ft. deep.

2. The Board concludes that these conditions ☐ **do** - ☒ **do not** generally apply to other property in the vicinity based on the following findings of fact:

Other property in the vicinity is more uniform in shape with more buildable depth and are not impacted by the presence of drainage easements at the rear of the property that hinder development. In fact, all adjacent lots in this area have been built upon.

3. The Board concludes that because of these conditions, the application of the ordinance to the particular piece of property ☒ **would** - ☐ **would not** effectively prohibit or unreasonable restrict the utilization of the property based on the following findings of fact:

Because of the shape of the property and presence of the storm drainage easement to the rear, the requirement of a 35 ft. front setback will place the dwelling in very close proximity to the drainage easement. Should work be necessary within that easement, it could impact the structure.

4. The Board concludes that authorization of the variance ☐ **will** - ☒ **will not** be of substantial detriment to adjacent property or to the public good, and the character of the district ☐ **will** - ☒ **will not** be harmed by the granting of the variance based on the following findings of fact:

Because of the location of the parcel within the development and its irregular shape, authorization of the requested variance, allowing construction of a dwelling similar to the rest of the subdivision will not be of substantial detriment to the adjacent property or the public good.

THE BOARD, THEREFORE, ORDERS that the variance is ☐ DENIED –☒ GRANTED,
subject to the following conditions:

Approved by the Board by majority vote.

Date issued: _____

Chairman

Date mailed to parties in interest: _____

Secretary

**Notice of appeal to Circuit Court must be filed within 30 days after date this Order was
mailed.**